

HEC Hearing Notes, January 18, 2018

Thursday, January 18, 2018

10:19 AM

Shimkus - at time of CERCLA no state programs, now states have robust cleanup programs and their role should change

Tonko - AEL, HENC sites not prioritized for being put on the list

Pallone - upset about Kell not present; being placed in charge of Trust Fund and special accounts

Questions:

Shimkus:

Frustration with how long and costs it takes to clean up Superfund sites

What is needed?

Barry: those are questions asked ourselves for task force

What is in the task force report is what we would recommend to improve the SF process

Would cleanups be more efficient if certain CERCLA roles delegated to the states?

Barry: already have sites not on NPL because states are addressing them; some with formal agreements and some without formal agreements

In order for sites to get on NPL, practice to ask for state concurrence before listing

Site assessments often done by state programs

Provided \$58M to states in FY17

States can recover costs already

Strong working relationship has already made a difference

Does NCP need to be modified?

Modified HRS rule

We would be open to revising if warranted

Tonko:

How does EPA do FYR process?

Wants EPA to look at data from states and others regarding completion and FYR

How were members of task force chosen?

Career staff in EPA

Mostly senior staff

No screening, based on work staff do

Stakeholder partners contributed?

Did agency comply with FACA - to best of our knowledge we did

Task force out for public comment?

Maintain and publish records? - No

Tonko - need more transparency, disappointing

AEL - Did EPA develop formalized methodology? Process developed to meet objective

Public meeting? - no not on list

Confer with stakeholders before listed, including CAG? Did not ask regions to formally go out and ask CAGs and others.

Has EPA met with stakeholders since sites were listed? Barry would have to check with each site.

McKinley - Recommendation 23 and 28 having to do with comfort letters, liked those recommendations
Current comfort letters don't provide comfort, when will those recommendations be done

Barry - offer briefing to address those recommendations in particular

Can we go after stakeholders to get assets, stop corporations from shedding liability? Barry, need DOJ attorneys to address that

What can we do to make sites faster?

These sites are the hardest sites, will take a while but we would like to do faster too

Pallone -

What did Mr. Kelly do to be barred?

AEL not based on risks to human health and environment

Redevelopment list not based on risks to human health and environment

Are these lists not based on risks?

No, these sites need Administrator attention and redevelopment potential

If core mission of agency focus on SF, core mission is being focused away from risks.

Called into question if agency is focusing on the worst and riskiest sites.

Are cleanups still a priority if not on the AEL or redevelopment list?

Barry - do have to worry about funding, but yes, we will continue to focus on all sites

Pallone has introduced SF tax legislation

Olson -

San Jacinto waste pits site, Hurricane Harvey overwhelmed caps at site

Thanks to administrator pruit to remove all wastes from site, not just cap

How does EPA determine when appropriate to respond to emergency or let states/locals respond?

Does EPA have resources need to respond to calls?

Professionals deciding what is best way to respond

We will work within whatever funding you give us

Barry: congress sets who is a PRP through CERCLA

Ruiz -

Pruitt's unilateral streamlining of process disturbing

Horror stories of tribal land contamination that federal government turned back on

St regis mohawk in particular - 2 sites, disregarded st. regis mohawk cleanup standards

Asked GAO to look into policies related to c/up on tribal lands

What did task force do to meaningfully consult with tribes?

Ruiz believes EPA has not meaningfully consulted with tribe

Carter

1996 LCP Chemicals Georgia site placed on NPL

Why taking 20 years?

Barry - we will sit down with you to discuss the site

Shimkus would like to be at meeting because think it is a funding issue

Green

Orphan SF sites - how many orphan sites are listed on the NPL?

Barry - approximate 60% of sites have PRP involvement or role

Barry - we will give Green the number of orphan sites on the NPL

Did EPA request a funding increase? Barry, no

Did EPA request a funding cut? Barry, showed less

Barton

Do you have a political above you? No

How many SF sites have been cleaned up in the history of the program?

Deletion happens at the very end

Reuse

Construction numbers

1,341 sites listed, how many sites can congress expect to be cleaned up per year?

Wait for pres bud to be released

For construction completions, double digit numbers ok to expect

What is problem? Technical, money, etc.?

Both. There are always sites that we can't get to each year.

Need to modernize the Superfund program, but also need to fund it adequately. Bipartisan agreement

DeGette -

Copy of staff list for task force? Yes, we will provide

Actual records of when meetings occurred? Barry will check

Meeting minutes created? Barry, not to my knowledge

Can we get records of task force? Barry, personally not opposed, but will turn over to those who are dealing with

GKM - included on AEL

EPA conducting RI/FS? What is timeline for RI/FS to be released? Barry will get to them.

What action EPA taking while remediation plan is being developed?

Have provided more than \$2M to states and tribes for water quality monitoring

Community involvement coordinators working with stakeholders, will get them to provide a summary

\$29M spent in response, \$5M spent after that. Is EPA committed to provide sufficient funding for cleanup? Yes.

What is EPA's long-term plan for water treatment costs? Let congresswoman know costs.

Walberg

How are special account funds collected, current balance, how spent?

Current balance \$3.2 billion

Collected about \$6.8 billion over the years

Typically funded as a result of a cd with responsible party

Authority to not give to MRA, but to keep it in special accounts, authority provided by congress

Earn interest on the funds

For many sites, we take the money now. Smarter to take money and put in accounts and spend it as it is needed.

We have multi-years plans for how money will be spent year by year

Special account for LCP chemicals

Could give incentives to PRPs

Reimburse parties if complete work early?

Does statute need to be changed for what special account funds can be used for

Barry - we would like to work with you on that

Dingell

Budget decreases since 1999

FY 2018 requested a budget decrease of 30%, yes? Barry, correct.

Barry - we will do what we can with funding provided to us.

Always looking for ways to be more efficient.

Looking at multi-year plan to reallocate FTE.

Looking at way can do contracting better

Do you need more money?

At the end of each year, we have sites ready to be funded that did not have money to be funded.

Cardenas

Have more to do? Yes, have more to do.

Specifically confined to one region/one state? Nationally have work. Would have to check if there are SF sites in every state.

Do we have enough funding?

We are looking for ways to be more efficient.

Fund emergency response and long-term cleanup, have to choose how much to find between the two.

What can we do more with local governments, local communities for future cleanups?

2nd Panel

Porter -

SF costs way too much and not enough being done

Each quarter set and enforce deadlines with regions

Remedy Review Board worse than nothing, need to get rid of it, takes more time

McKenna - No cookie cutter approach to SF sites

Superfund needs sufficient budget and staff

Need to reinstate the SF tax for orphan sites

For mega superfund sites, break them up into manageable areas, such as operable units

Over 100 PRPs at Portland Harbor site, develop tools to give PRPs enough certainty to settle but retain EPA reopeners

Debbie Mans - CAG for Passaic River

Recalcitrance of PRPs further amplified by lack of EPA funds to fund the cleanup itself

Need to reinstate the SF tax

Site being on AEL and \$50M remedy selection by Administrator gives her pause; add layers of bureaucracy; unclear why administrator would know more than those on the ground about best cleanup option for the site; adaptive management seems to be why site placed on list, being pushed by PRPs and denied by region 2 staff

Licensed site professional remediation program - transferring SF sites to a program like this would be inappropriate, EPA takes over sites that are very complicated, less public engagement and participation in program like licensed site professional program

Probst

Why take so long to cleanup sites? Sad don't have any answers. EPA needs to do an objective analysis for why sites taking so long. Much more attention needs to be paid to PRP-lead sites.

Over 100 non-federal sites HENC, more with ISD

Need to do an independent commission to evaluate costs for states

No public estimate for future needs to complete program; congress should require

Should create a PRP reserve fund to allow follow through on enforcement threats

Few years of surge funding allow program to catch up?

No updates on SF task force recommendations except release of AEL and redevelopment lists

Shimkus

Cobb note that NCP should be updated - NCP written 35 years ago, need to update with lessons learned, NCP written as though every site going to litigation and cost recovery; enable sites that want to resolve liability to move through faster

Asked Cobb if certain authorities could be delegated to states. Yes, where PRPs want to do cleanup, those cleanups can be delegated to states.

Asked Mans if it would be a problem delegating that to the states. Already a close partnership with state, not appropriate to delegate to state

McKenna - McCormick and Baxter, orphan site, EPA paid for, state did clean up

Tonko

Asked Probst if lack of funding delaying cleanup. Probst pointed to Barry's statement that there are projects that remain unfunded each year. Harder to determine delays in cleanup due to lack of funding, not as clear cut to determine longer timeframes due to inadequate funding.